

Lee Chan Leong v Jurutera Konsultant (SEA) Sdn Bhd & Ors

COURT OF APPEAL (KUALA LUMPUR) — CIVIL APPEAL NO W-02-492
OF 1999

GOPAL SRI RAM, ABDUL KADIR SULAIMAN AND ALAUDDIN JJCA
12 AUGUST 2002

Civil Procedure — *Contempt of court — Contempt proceedings — Failure to formulate and frame charge against alleged contemnor — Notice to show cause failing to allege any misconduct or criminality on the part of the alleged contemnor — Alleged contemnor's liability to punishment not mentioned in notice — Whether contempt proceedings a nullity, void and a breach of the rules of natural justice — Whether alleged contemnor's fundamental rights under the Federal Constitution violated*

Civil Procedure — *Contempt of court — Contempt proceedings — Nature of such proceedings — Oppressive contempt proceedings not to be condoned*

Civil Procedure — *Contempt of court — Ingredients of — Letter written by counsel to Chief Judge — Nothing in the letter to impede or obstruct the course of justice — No express or implied libel against trial judge — No allegation that trial judge acted with impropriety — Whether contempt made out*

Civil Procedure — *Contempt of court — Sentence — No defiance displayed by alleged contemnor — Several forms of apology tendered by alleged contemnor — Whether conviction and sentence smacked of oppression and vindictiveness*

The appellant — an advocate and solicitor — was engaged to appear with senior counsel in a matter before the High Court at Kuala Lumpur. There were parallel proceedings in the High Court at Shah Alam. The Shah Alam High Court made certain findings which senior counsel contended bound the parties in the Kuala Lumpur proceedings. Subsequently, the appellant and the senior counsel gained the impression that the judge hearing the Kuala Lumpur proceedings had taken the position that he was not bound by the Shah Alam High Court findings. Both counsel became anxious as to the future conduct of the Kuala Lumpur proceedings. Both thought that the judge at Kuala Lumpur had made up his mind on the matter. The appellant thus wrote to the Chief Judge of Malaya for a transfer of the proceedings. This letter did not cast any aspersion on the integrity or on the person of the judge at Kuala Lumpur. However the judge at Kuala Lumpur issued a notice to show cause requiring both counsel to appear before him. Both counsel tendered their apologies, were excused and the notice was discharged. The appellant subsequently wrote a brief second letter to the Chief Judge stating that the matter had been appropriately settled by the judge at Kuala Lumpur and that he wished to withdraw the earlier letter. However the judge at Kuala Lumpur took umbrage with the contents of this second letter and issued a notice to the appellant to be examined. The appellant wrote to the Chief Judge again explaining why the second letter had been

A written, and in response to the notice appeared before the judge at Kuala Lumpur. Although the appellant apologized, he was nevertheless convicted of contempt and fined RM10,000 in default three months' imprisonment. The appellant was further ordered to pay the fine before 1.30pm on the same day. The appellant appealed against both conviction and sentence.

B **Held**, quashing the conviction and setting aside the sentence and ordering the fine be refunded:

C (1) No formal charge was formulated and framed against the appellant. The notice to show cause did not allege any misconduct or criminality on the part of the appellant requiring an answer. The notice did not say that if the appellant could not satisfactorily explain his conduct, he would be punished for contempt. On this ground alone the proceedings before the judge were a nullity. They were entirely void and in breach of the rules of natural justice. They violated the appellant's fundamental rights under articles 5 and 8 of the Federal Constitution, namely the right to a fair procedure before being punished (see pp 724F–G, 725C–D); *Maharaj v Attorney-General of Trinidad and Tobago* [1977] 1 All ER 411 followed.

D (2) The essential question in the present appeal was whether the appellant had in any way interfered with the administration of the law or had impeded and perverted the course of justice by writing the letter (second letter) that he did. There was nothing in the letter (second letter) which either impeded or obstructed the course of justice. Neither was there any express or implied libel against the judge. The letter merely said that the matter had been resolved or words to that effect. There was no suggestion that the judge acted with any impropriety. The letter was neither a libel against the judge nor had it muddled the pure waters of justice. It was not contempt (see p 726A–C).

E (3) The appellant in this case displayed no defiance. He was entirely apologetic for the misunderstanding which had occurred through no fault of his and for an incident of which he was neither the author nor the cause. The appellant apologized several times both in writing and orally. The conviction and sentence in the face of such apology smacked of oppression and vindictiveness (see p 726D–E); *Dinanbandhu Sahu v The State of Orissa* 1972 AIR Orissa SC 180 followed.

F (4) The Bar is a critical partner in the function which the court carries out, which is to ensure that members of the public and litigants receive justice in an untainted form. Proceedings for contempt are there to protect and defend the integrity of justice itself. It is not to protect the self-righteousness of individual judges or their personal pride. Taking offence on small points and becoming enraged on trivia to the extent of subjecting an advocate and

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solicitor to contempt proceedings is neither in the best traditions of the Bench nor enhances the dignity of the court. Members of the Bar are already under considerable pressure to canvass their clients' case to the best of their ability. Judges should not make that burden even greater by instituting oppressive contempt proceedings (see p 727A–D).

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[Bahasa Malaysia summary]

Perayu — seorang peguambela dan peguamcara — telah diupah untuk hadir bersama seorang peguam kanan dalam satu perkara di hadapan Mahkamah Tinggi di Kuala Lumpur. Terdapat prosiding persamaan dalam Mahkamah Tinggi di Shah Alam. Mahkamah Tinggi Shah Alam membuat keputusan tertentu yang mana peguam kanan tegaskan telah mengikat pihak-pihak dalam prosiding Kuala Lumpur. Kemudiannya, perayu dan peguam kanan tersebut mendapat tanggapan bahawa hakim yang mendengar prosiding Kuala Lumpur telah berpendirian bahawa beliau tidak terikat oleh keputusan Mahkamah Tinggi Shah Alam. Kedua-dua peguam menjadi bimbang berhubung dengan pengendalian di masa hadapan prosiding Kuala Lumpur tersebut. Kedua-dua mereka berfikir bahawa hakim di Kuala Lumpur telah membuat keputusan atas perkara tersebut. Perayu telah menulis kepada Ketua Hakim Malaya untuk memindahkan prosiding tersebut. Surat ini tidak memburukkan integriti atau peribadi hakim di Kuala Lumpur. Walau bagaimanapun hakim di Kuala Lumpur telah mengeluarkan satu notis tunjuk sebab yang menghendaki kedua-dua peguam hadir di hadapan beliau. Kedua-dua peguam telah memohon maaf, dimaafkan dan notis tersebut dimansuhkan. Perayu kemudiannya telah menulis surat kedua yang ringkas kepada Ketua Hakim yang menyatakan bahawa perkara tersebut telah diselesaikan dengan wajarnya oleh hakim di Kuala Lumpur dan bahawa beliau ingin menarik balik surat yang lebih awal. Walau bagaimanapun hakim di Kuala Lumpur berasa tersinggung dengan kandungan surat kedua ini dan mengeluarkan satu notis kepada perayu supaya diperiksa. Perayu telah menulis kepada Ketua Hakim sekali lagi untuk memperjelaskan mengapa surat kedua itu ditulis, dan bagi menjawab notis tersebut telah hadir di hadapan hakim di Kuala Lumpur. Meskipun perayu telah memohon maaf, beliau telah namun begitu disabitkan atas penghinaan dan didenda RM10,000 dalam keingkaran pemenjaraan selama tiga bulan. Perayu telah selanjutnya diperintahkan supaya membayar denda sebelum jam 1.30 tengah hari pada hari yang sama. Perayu merayu terhadap kedua-dua sabitan dan hukuman.

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Diputuskan, membatalkan sabitan tersebut dan mengenepikan hukuman dan memerintahkan supaya denda dibayar balik:

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- (1) Tiada pertuduhan ramsi dirumuskan dan dibuat terhadap perayu. Notis untuk menunjukkan sebab tidak mendakwa sebarang salah

- A laku atau jenayah oleh pihak perayu yang memerlukan satu jawapan. Notis tersebut tidak menyatakan bahawa jika perayu tidak boleh memperjelaskan perlakuan beliau dengan memuaskan, beliau akan dihukum kerana penghinaan. Atas alasan ini sahaja prosiding di hadapan hakim adalah suatu pembatalan. Ianya adalah sesungguhnya tak sah dan mengingkari kaedah-kaedah keadilan asasi. Ianya melanggar hak asasi perayu di bawah perkara-perkara 5 dan 8 Perlembagaan Persekutuan, iaitu hak kepada satu prosedur yang adil sebelum dihukum (lihat ms 724F-G, 725C-D); *Maharaj v Attorney-General of Trinidad and Tobago* [1977] 1 All ER 411 diikuti.
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- C (2) Persoalan penting dalam rayuan semasa adalah sama ada perayu telah dalam sebarang keadaan mengganggu pentadbiran undang-undang atau telah menghalang dan mengelirukan perjalanan keadilan dengan menulis surat (surat kedua) yang telah beliau lakukan. Tidak terdapat apa-apa di dalam surat (surat kedua) itu yang mana sama ada telah menghalang atau menggendalakan perjalanan keadilan. Tidak terdapat juga sebarang libel nyata atau tersirat terhadap hakim. Surat tersebut hanya menyatakan bahawa perkara tersebut telah diselesaikan atau perkataan-perkataan yang menyatakan sedemikian. Tidak terdapat sebarang saranan bahawa hakim telah bertindak secara salah. Surat tersebut bukannya satu libel terhadap hakim dan tidak juga mengeruhkan lagi keadilan. Ianya bukan satu penghinaan (lihat ms 726A-C).
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- E (3) Perayu dalam kes ini tidak memaparkan sebarang ketidakpatuhan. Beliau sesungguhnya menunjukkan sifat sesal di atas salah-fahaman yang telah berlaku bukan kerana beliau dan bagi satu peristiwa yang mana bukan dilakukan atau disebabkan oleh beliau. Perayu telah memohon maaf beberapa kali secara bertulis dan juga secara lisan. Pensabitan dan hukuman meskipun terdapatnya perbuatan memohon maaf yang sedemikian menunjukkan penindasan dan sifat berdendam (lihat ms 726D-E); *Dinanbandhu Sahu v The State of Orissa* 1972 AIR Orissa SC 180 diikuti.
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- G (4) Majlis Peguam merupakan rakan yang kritikal dalam fungsi yang dijalankan oleh mahkamah, yang mana adalah untuk memastikan bahawa orang awam dan litigan-litigan menerima keadilan dalam bentuk yang tidak tercemar. Prosiding untuk penghinaan wujud untuk melindungi dan membela integriti keadilan itu sendiri. Ianya bukan untuk melindungi kebenaran diri sendiri hakim-hakim individu atau kemegahan peribadi mereka sendiri. Menganggapkan salah perkara-perkara kecil dan menjadi marah atas perkara-perkara remeh sehingga menjatuhkan hukuman penghinaan kepada seseorang peguambela dan peguamcara bukannya dalam tradisi terbaik anggota kehakiman dan tidak juga mempertingkatkan kemuliaan mahkamah. Ahli-ahli Majlis Peguam telah pun menghadapi tekanan untuk membincangkan
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kes anakguam mereka menurut keupayaan mereka sebaik yang mungkin. Hakim-hakim tidak seharusnya membuat bebanan itu lebih berat dengan mengenakan prosiding penghinaan yang bersifat menindas (lihat ms 727A–D).]

Notes

For cases on contempt proceedings, see 2 *Mallal's Digest* (4th Ed, 2001 Reissue) paras 1466–1472.

Cases referred to

Dinanbandhu Sahu v the State of Orissa AIR 1972 SC 180 (refd)

Johnson v Grant (1923) SC 789 (refd)

Maharaj v Attorney-General of Trinidad and Tobago [1977] 1 All ER 411 (refd)

Solicitor-General v Radio Avon Ltd & Anor [1978] 1 NZLR 225 (refd)

Legislation referred to

Courts of Judicature Act 1964 s 20, Schedule, para 12

Federal Constitution arts 5, 8

Appeal from: Suit No S2–22–682 of 1998 (High Court, Kuala Lumpur)

DP Naban (Wong Kian Kheong and Andrew Chiew Ean Vooi with him) (Lee Hishammuddin) for the appellant.

Joseph Yeo (Joseph Yeo) for the first, second and third respondents.

(Chan Leong & Co) for the fourth, fifth and sixth respondents.

Gopal Sri Ram JCA (delivering judgment of the court): This is an unfortunate case. It need never have happened. It happened because of a lack of judicial restraint and understanding. The facts are simple enough.

This appellant is an advocate and solicitor of these courts. He was engaged to appear with senior counsel in a matter before the High Court at Kuala Lumpur. There were some parallel proceedings in the High Court at Shah Alam. Certain findings were made by the Shah Alam High Court, counsel leading the appellant contended that those findings were binding on the parties in the Kuala Lumpur proceedings. There was a meeting before the Registrar of the Kuala Lumpur High Court. Apparently, the appellant and the counsel instructed by the lay client gained an impression at that meeting that the judge hearing the Kuala Lumpur proceedings had taken the position that he was not bound by the findings made in the Shah Alam High Court.

Not unnaturally, the appellant and leading counsel became anxious as to the future course of the Kuala Lumpur proceedings. They thought that the matter was one upon which the learned judge had made up his mind. So, quite appropriately, the appellant wrote to the Chief Judge of Malaya for a transfer of proceedings.

- A** In the old days, such a course would have been unnecessary. Paragraph 12 of the Schedule of the Courts of Judicature Act 1964 ('the Act') provides for a transfer of proceedings. From our experience at the Bar and the judicial and legal service respectively, such applications were made by summons in chambers to the relevant judge. There was hardly any acrimony in the matter. Such applications were dealt with as of course.
- B** However, a few years ago, the view was taken that because of s 20 of the Act, such applications required the intervention of the Chief Judge of Malaya or the Chief Judge of Borneo, as the case may be.

- We set out this brief history about applications for transfer so that someone who reads this judgement would understand why that letter that was written to the Chief Judge of Malaya. The letter in question does not cast any aspersion either on the integrity or on the person of the learned judge in the High Court of Kuala Lumpur. Yet, it gave rise to much acrimony. A notice to show cause was issued. Both counsel and the appellant had to appear before the learned judge. Both tendered their apologies, although in our view none was necessary. Both were excused and the notice was discharged.
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- There then took place a dialogue between the judge, the appellant and his learned leader. Apparently, the learned judge gave an assurance to counsel about the future conduct of the case before him. It appears from the documents on record that the appellant was entirely satisfied with whatever assurance that had been given to counsel by the learned judge. At the conclusion of the meeting with the learned judge, he informed counsel that he (the learned judge) would be making a full report to the Chief Judge of Malaya.
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- The appellant then wrote a very brief letter to the Chief Judge. His explanation appears to be that he did not wish to put anything more in his letter as what he might say may conflict with the report that the learned judge was proposing to make to the Chief Judge. However, that letter produced dire consequences for the appellant quite unexpectedly. For, the learned judge took umbrage with the contents of the letter. He issued a notice to the appellant to be examined. Both the letter and notice are important documents. They should be produced to be read. We do so now.
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- G** Shorn of all its formalities, this is what the appellant's letter said:

2 Kami menulis untuk memaklumkan Yang Amat Arif bahawa perkara yang dibangkitkan dalam surat kami terdahulu telahpun diselesaikan Mahkamah Tmggi Kuala Lumpur pada 9 April 1999. Oleh itu, kami secara rendah hati memohon untuk menarik balik surat tersebut dengan sesungguhnya meminta maaf atas segala kesulitan yang dikenakan.

- H** Sekian, terima kasih.

The notice in question was in the following terms:

- I** Adalah saya merujuk kepada surat tuan bil LCL/L/050/98/LKT bertarikh 10 April 1999 kepada yang Amat Arif Hakim Besar Malaya di mana tuan menyatakan bahawa perkara yang dibangkitkan dalam surat tuan terdahulu telahpun diselesaikan dengan sewajarnya oleh Yang Arif Hakim Mahkamah Tinggi Kuala Lumpur pada 9 April 1999.

2 Adalah saya diarahkan oleh Yang Arif Dato' Dr Kamalanathan Ratnam untuk menyatakan bahawa surat tuan telah memberikan suatu gambaran yang tidak tepat berkenaan apa yang telah sebenarnya berlaku selepas tuan menghantar surat tuan yang terdahulu kepada Yang Amat Arif Hakim Besar Malaya. Surat tuan telah memberikan gambaran bahawa suatu rundingan telah diadakan dengan Yang Arif Dato' Dr Kamalanathan Ratnam berkenaan penyelesaian ini. Maka tuan diminta menunjuk sebab kenapa tuan tidak perlu disoalsiasat di mahkamah terbuka kerana tidak memberitahu segala apa yang sebenarnya berlaku dalam surat tuan kepada Yang Amat Arif Hakim Besar Malaya.

3 Tarikh tunjuk sebab di hadapan Yang Arif Dato' Dr Kamalanathan Ratnam ditetapkan pada 27 April 1999 di mahkamah terbuka pada pukul 9 pagi. Tuan boleh diwakili oleh peguam sekiranya tuan fikirkan perlu.

The appellant responded to this notice and appeared before the learned judge. In the meantime, he wrote a letter to the Chief Judge of Malaya clarifying his position. That letter was highly complimentary of the learned judge. It contains an entirely satisfactory explanation as to why the letter, as reproduced above, was written. In the proceedings before the learned judge, the appellant apologized. But all to no avail. At the conclusion of the inquiry, the learned judge found the appellant guilty of contempt. He was sentenced to a fine of RM10,000 in default three months imprisonment. A further order was made, and quite an extraordinary one in our view, that required the appellant to pay the fine by 1.30pm on the same day. The fine was paid before the set hour. The appellant now appeals to us to quash the conviction and to set aside the sentence.

In this appeal, Mr Joseph Yeo appeared for the first, second and third respondents. In the finest traditions of the Bar, Mr Yeo informed us that he was not supporting the conviction. It is our pleasure to commend his conduct. Mr Naban appeared and argued the appeal by advancing several grounds. By reason of the decision here arrived at, we find it unnecessary to deal with all of them. We would therefore address what we consider to be two most important grounds.

The first is that there was no formal charge formulated and framed against the appellant. This, of course, is a very important point. To recapitulate, the notice to show cause did not allege any misconduct or criminality on the part of the appellant requiring an answer. It did not set out any charge. It did not say that if the appellant could not satisfactorily explain his conduct, he would be punished for contempt. These are essential ingredients in summary proceedings for contempt. If authority is required for such an elementary point, it is to be found in the judgment of Lord Salmon in *Maharaj v Attorney-General of Trinidad and Tobago* [1977] 1 All ER 411 where (at p 416) he said:

In charging the appellant with contempt, Maharaj J did not make plain to him the particulars or the specific nature of the contempt with which he was being charged. This must usually be done before an alleged contemnor can properly be convicted and punished (*Re Pollard* [1868] LR 2 PC 106). In their Lordships' view, justice certainly demanded that the judge should have done so in this particular case. Their Lordships are satisfied that his failure to

- A** explain that the contempt with which he intended to charge the appellant was what the judge has described in his written reasons as ‘a vicious attack on the integrity of the Court’ vitiates the committal for contempt. Had the judge given these particulars to the appellant, as he should have done, the appellant would no doubt have explained that the unjudicial conduct of which he complained had nothing to do with the judge’s integrity but his failure to give the appellant’s clients a chance of being heard before deciding against them.
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- At the risk of repetition, here too, no particulars of the charge as required by law were given to the appellant. Since no charge was properly framed and no sufficient particulars were given, the conviction for contempt must have come as a complete surprise to the appellant at the conclusion of the show cause proceedings. It is not to be forgotten that the notice merely required that the appellant to appear and to be examined. There was not a word that he was liable to be punished at the conclusion of the inquiry. On this ground alone, the proceedings before the learned judge were a nullity. They were entirely void. They were in breach of the rules of natural justice. They violated the appellant’s fundamental right under arts 5 and 8 of the Federal Constitution, namely the right to a fair procedure before being punished. The appeal should succeed on this ground alone. However, it is important to the legal profession, as much as it is to the appellant, that we vindicate him. There should be no lingering doubt that the appellant was guilty of any offence, let alone contempt of court. We, therefore, propose to deal with the second ground.
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- Mr Naban submitted that the appellant had not committed any contempt of court at all. At the heart of this submission, lies the very meaning of the expression ‘contempt of court’. Now, there is some judicial opinion that the phrase ‘contempt of court’ is misleading and that it is a misnomer. In *Solicitor-General v Radio Avon Ltd & Anor* [1978] 1 NZLR 225 at p 229, a very strong bench of the Court of Appeal for New Zealand presided by Richmond P who said:
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- It will be as well, before proceeding further, to say something of the expression of ‘contempt of court’ and of the purpose of the law of contempt in our society. The use of the term ‘contempt of court’ has been criticized, with some justification, as inaccurate and misleading. As was pointed out by the report of the Committee on Contempt of Court (Cmnd 5794), presented to the United Kingdom Parliament in 1974, and generally referred to as the Phillimore Report, the term may suggest in some context, that the law of contempt exist to protect the dignity of judges whereas in fact it exist to protect the administration of justice. This point was made by Lord President Clyde in *Johnson v Grant* (1923) SC 789. The Lord President said ...
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- ‘The phrase ‘contempt of court’ does not describe the true nature of the class of offence with which we are here concerned ... The offence consists in interfering with the administration of justice of the Law; in impeding and perverting the course of justice ... It is not the dignity of the court which is offended — a petty and misleading view of the issues involved — it is the fundamental supremacy of the law which is challenged.’ (ibid 790).
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The essential question, in the present appeal, is whether the appellant had in any way interfered with the administration of the law or had impeded and perverted the course of justice by writing the letter that he did. It will be seen at once that we are borrowing the phraseology of Lord President Clyde in *Johnson v Grant* (1923) SC 789.

In answering the question we asked a moment ago, we must hearken back to the letter which formed the subject matter of the charge. There is nothing in that letter, in our view, which either impedes or obstructs the course of justice. Neither is there any express or implied libel against the learned judge. The letter merely says that the matter has been resolved or words to that effect. There is no suggestion that the learned judge acted with any impropriety. The letter was neither a libel against the learned judge nor had it muddled the pure waters of justice. Put shortly, it was not contempt. If only the learned judge had the restraint to appreciate the explanation given by the appellant, he would have realized how wrong his perception of the entire matter was.

There are two other short observations which we would like to make.

First, this is a case in which the appellant displayed no defiance. He was entirely apologetic for the misunderstanding which had occurred through no fault of his and for an incident of which he was neither the author nor the cause. It must be remembered that all this happened because the registrar had said that the learned judge would not be bound by the findings of the Shah Alam High Court. The appellant did not apologize once. He apologized several times both in writing and orally. The conviction and sentence in the face of such apology smacks of oppression.

We need not look far for support for the view which we have just expressed. It is to be found in the passage of a very learned judge of the Indian Supreme Court in *Dinanbandhu Sahu v The State of Orissa* AIR 1972 SC 180 at p 182. In that case, P Jaganmohan Reddy J had this to say:

The apology tendered was not merely an apology but was something more than an apology because what was asked of the court out of its generosity was forgiveness; that this was sincerely meant is amply demonstrated by its being repeated again before us. We think that the contempt if any has been certainly purged in the manner in which the apology was given and the matter should have been set at rest. *It is no part of the judicial function to be vindictive or allow any personal or other considerations to enter in the discharge of its functions* and since both the learned Chief Justice and Misra J would have been prepared to accept that apology if it was given by the appellants themselves and in writing and since Mr Chari said that the appellants themselves would have been prepared to give such an apology in writing, if that was the only thing that was required and even now are ready and willing to do so we feel that the apology tendered on their behalf by their senior advocate can well be accepted and the proceedings closed. (Emphasis added.)

It is our misfortune to observe that there was vindictiveness here. The contempt of court proceedings were instituted against the appellant and pursued despite the appellant tendering several forms of apology.

Now the second observation. The administration of justice is not merely in the hands of judges and other officials of the court. The Bar is a

- A critical partner in the function which the court carries out. That function is to ensure that members of the public, and the litigants in the courts, who are the ultimate consumers of the product of the court, that is to say, justice, receive it in an untainted form. We are all mere tools of justice. The court is merely the conduit through which justice flows continuously and flows pure. Proceedings for contempt — it has been said often enough — are there to protect and defend the integrity of justice itself. It is not to protect the self-righteousness of individual judges or their personal pride. Taking offence on small points and becoming enraged on trivia to the extent of subjecting an advocate to contempt proceedings is neither in the best traditions of the bench nor enhances the dignity of the court. Quite to the contrary. If contempt proceedings are instituted purely because of the personal ego of a judicial arbiter, it brings indignity to the court and muddies the very streams of justice that a judge has by his oath of office sworn to keep pure.
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These observations are made to remind ourselves and members of this great institution of the noble burden which they have sworn to carry on their shoulders. Members of the Bar are already under considerable pressure to canvass their clients' case to the best of their ability. Judges should not make that burden even greater by instituting oppressive contempt proceedings.

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- E For the reasons already given, this appeal must succeed. The conviction is quashed, the sentence is set aside and the fine paid is to be refunded. We wish to state that the appellant leaves this court without any blame attaching to his professional conduct and without any blemish upon his character. We wish to thank counsel for the appellant for making available the relevant authorities. But for their effort, this ex tempore judgment would not have been possible. Our learned brother, Abdul Kadir Sulaiman JCA will now read the formal orders to be made in this appeal.

- F *Conviction quashed and sentence set aside and fine ordered to be refunded.*

Reported by Andrew Christopher Simon

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